BRITISH COLUMBIA

BC STATS

Ministry of
Management Services

Infoline

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- **Inflation rate edged up to 2.0%, boosted by energy prices and tuition fees**
- **Retail sales jumped 1.6%, the largest monthly increase in more than a year**
- **Fewer BC taxfilers have contributed to a RRSP in the 2002 tax year**

Prices

- **British Columbia's all-items consumer price index (CPI) rose 2.0% from September 2002 to September 2003.** British Columbia's inflation rate fell earlier this year, reaching a low of 1.7% (year-over-year) in both June and July, before starting to increase in the last two months. Prices of most commodity groups were higher. Year-over-year price increases in food (+2.2%), household operations (+1.7%), health and personal care (+1.2%), recreation, education & reading (+3.9%) and alcoholic beverages & tobacco (+5.0%) were higher than the previous month. September's 12-month increase for shelter (+1.7%) and transportation (+1.7%) were lower than August's 12-month increase. In September, consumers paid less for clothing and footwear (-0.5%) than the same month last year, as prices continued a year-long decline.

  BC students paid 26.2% more in tuition fees in September, compared with the same month in 2002. Upward price pressure also came from energy (+6.4%). Excluding energy, BC's inflation rate would have been 1.8%. As has been the case throughout the year, the inflation rate in Victoria (+2.0%) was higher than in Vancouver (+1.8%).

  BC's inflation rate was slightly lower than the Canadian average (+2.2%). The gap in the 12-month increase in prices between BC and Canada has narrowed in the last two months.

  Source: Statistics Canada

The Economy

- **August retail sales in the province posted the largest increase (+1.6%, seasonally adjusted) since January 2002**. The recent gains in sales over the last three months offset the ground lost in March (-2.7%). Sales edged up (+0.3%) in Canada. Only Retailers in Saskatchewan (+1.9%) and Newfoundland & Labrador (+1.8%) saw a stronger increase in sales than in BC. Ontario retailers posted only a small decline (-0.2%) in sales despite the blackout as consumers spent less in the automotive and clothing sectors and increased spending in food stores. *Source: Statistics Canada*

- **Sales by wholesalers in BC remained unchanged in August, following small gains (+0.2%) in July.** Wholesale sales in BC declined consistently between February and June 2003 but have stabilized since. In Canada, wholesale sales were down -4.6%, affected by the power outage that paralysed wholesalers in Ontario (-8.0%). *Source: Statistics Canada*

BC Economic Forecast 2003-2004

- **BC real GDP growth in 2003 and 2004 is now forecast to come in at 1.2% and 2.4% respectively, according to Credit Union Central of British Columbia**. The forecast for 2003 has been downgraded considerably from the spring forecast (+2.0%) due to the appreciation of the Canadian dollar, combined with short-term events (the SARS in Toronto, the forest fires in BC and the isolated case of mad cow disease in Alberta). According to this forecast, BC's economic performance in 2003 will be worse than in 2002 (+1.8% real GDP growth).

  BC's economy is heading for modest improvement in 2004. The forecast for 2004 is also lower than the previous spring forecast (+3.3%) due to the expected adverse effects of the higher Canadian dollar on BC's exports. According to the Credit Union Central of British Columbia, high tech service industries are expected to improve while high tech manufacturing industries are expected to decline, resulting in small gains for the high tech GDP overall. The tourism sector

Report NAFTA Panels' Decisions on Lumber Duties

Did you know...
BC's total land and freshwater area is 95 million hectares,
larger than France and Germany combined.

GDP is forecast to increase slightly. Finally, the forest sector GDP should increase modestly, taking advantage of a US economic recovery.

Source: CUCBC

Research Funding in Universities

- **The share of Canadian research funding (8%) received by BC Universities in 2001 is lower than the share of Universities (13%) located in BC.** The 11 Universities located in BC received $267 million in research funding. With these funds, BC Universities performed well, reporting 200 inventions, 20% of all inventions reported across the country.

Source: SC, Catalogue 88-003-XIE

RRSP contributions

- **The number of British Columbians who contributed to a registered retirement savings plan (RRSP), as well as the amount of their contributions, dropped in 2002.** About one-quarter (27.3%) of the 2,795,860 BC taxfilers contributed to RRSP's, down 4.6% from 2001. The contributions to an RRSP went down to a lesser extent (-1.8%) to reach $3.6 billion. The median RRSP contribution in BC ($2,800) was higher than the median in Canada as a whole ($2,500). Victoria was the only metropolitan area where more residents contributed to an RRSP than in 2001 (+3.1%).

Source: SC, RRSP contributors databanks

Tourism

- **Restaurant, caterer and tavern receipts in the province increased 0.6% (seasonally adjusted) in August, following a substantial gain (+5.0%) in July.** Drinking places earnings dropped (-1.9%) for the first time in three months while the food services receipts rose for the second month in a row (+0.7%). Nationally, receipts increased slightly more than in BC (+0.8%), resulting from gains in food services (+0.9%) and losses in drinking places (-1.6%).

Source: Statistics Canada & BC Stats

- **The number of travellers entering Canada through BC borders continued to increase in July (+2.3%, seasonally adjusted), following the recovery in June.** Entries from both the US (+2.0%) and overseas (+3.7%) were up. Asian entries, registering a strong increase (+9.9%) in July, were set to restore the level reached before the SARS outbreak in March. Both overnight and same-day visits from the US increased at the same pace (+1.4%). The number of Canadians re-entering the country through BC also rose (+2.6%). The number of people making same-day auto trips to the US were up 1.4%, while the number of visitors returning from overseas trips jumped 8.3%. *Source: Statistics Canada*

Health of Canadians

- **A lower proportion of Canadians living in rural regions (20%) and northern regions (21%) rated their health as "excellent" compared to their urban counterparts (29%), according to the 2000/01 Canadian Community Health Survey.** Among the most popular health indicators, the share of the Canadian population that smokes, was the highest in the northern regions (33%), followed by rural regions (32%) and metropolitan areas (22%). In proportion, more rural (44%) and northern Canadians (42%) were overweight than Canadians living in major metro regions (27%).

Also, a higher proportion of Canadians living in northern regions reported that their health care needs were not met (15), then for Canada as a whole (13%). Finally, the highest level of physical inactivity was registered in major metro regions (57%) due to more sedentary activities (deskwork, computer games, Internet). Despite worse health conditions, the lowest level of physical inactivity was registered in the northern regions (48%).

Source: SC, Catalogue 21-006-XIE

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Infoline Report

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A Summary of the NAFTA Panels' Decisions on Lumber Duties

In April and May 2002, the Canadian government submitted a request for a panel review under Chapter 19 of the North American Free Trade Agreement (NAFTA) of the US final antidumping and subsidy determinations with regard to Canadian softwood lumber. In July and August 2003, the Panels released their findings. In the case of both the antidumping and countervailing duties, the decision by the Panels brought claims of victory from both the petitioners on the American side and the defendants on the Canadian side. Even Canadian newspaper reports seemed to have conflicting ideas of who won and who lost.[1] This confusion is not all that surprising considering the complexity of the questions put to the Panels and consequently, of their subsequent rulings. A closer examination of the rulings indicates that although they were mixed, the Canadian side achieved some key victories. On the other hand, the NAFTA Panel's more recent ruling on whether or not imports of Canadian lumber threaten the US industry was more clearly decided in Canada's favour.

Both the American petitioners and the Canadian defendants have claimed victory in the NAFTA Panels' first two decisions…

…However, the most recent decision is definitely weighted in Canada's favour

ANTIDUMPING DUTIES

In essence, *dumping* occurs when a good is sold in a foreign market at a price less than that received in domestic markets, or at a price below the cost of producing the goods. The United States Department of Commerce (USDC) determined that the average rate at which Canadian companies were dumping their lumber into the US market was 8.43%.[2] The NAFTA Panel investigated three types of issues: general, company-specific, and "class or kind" and scope issues.

General Issues

The NAFTA Panel did not accept all the arguments Canada posited with regard to general issues, but it did come to some key findings in reference to the method the USDC used to calculate duties. It rejected Canadian claims that the USDC should have considered the effects of the Softwood Lumber Agreement (SLA) on domestic prices, that export taxes should

[1] For example, the headline in the *Vancouver Province* read "NAFTA win may bring tax relief" (July 18, 2003, p. A36) indicating Canada was the winner, whereas the *Vancouver Sun* headline was "NAFTA panel upholds U.S. lumber tariffs" (July 18, 2003, p. G1) seeming to suggest that Canada lost its appeal.

[2] The average dumping duty is applied to all companies except for those for which specific margins were calculated. These are: Abitibi (12.44%), Canfor (5.96%), Slocan (7.71%), Tembec (10.21%), West Fraser (2.18%) and Weyerhaeuser (12.39%).

have been included in the price of goods sold in the US and that the USDC should not have employed the practise of "**zeroing**" when determining weighted average margins of dumping. However, it did accept Canada's claim that the USDC erred in calculating a "**constructed value**" of Canadian sales prices, as well as failing to account for dimensional differences in allocating joint costs of production and in comparing prices of merchandise. These are important victories for Canada because it implies that the USDC calculated the duties incorrectly and that the antidumping determination was inconsistent with US law.

"**Zeroing**" *is the practise of disregarding the portion of export prices that are in excess of normal value when calculating a weighted average*

A "**constructed value**" *serves as a proxy for a sales price in a country of exportation for goods for which there are no domestic prices available*

Company-Specific Issues

There were several company-specific issues investigated by the Panel. Again there were mixed findings and many of the arguments were rejected, while in some cases the Panel agreed with the specific company's argument and instructed the USDC to act accordingly. For some companies this may result in a reduction in duties. Since the average antidumping duty is based on an average of the six companies for which specific duties were calculated, any reduction in a company-specific duty would also result in a drop in the average antidumping duty to be paid by all other companies.

"Class or Kind" and Scope Issues

These issues revolve around the scope of the USDC investigation and whether certain goods should have been included. The Panel decided that Western Red Cedar (WRC) and Eastern Red Pine were not sufficiently distinguishable from other softwood lumber products to be excluded from the scope of the antidumping duty. The inclusion of WRC is a blow for BC's cedar lumber industry, which exported $714.8 million worth of WRC to the United States in 2002. The Panel also decided that used railroad ties were not sufficiently distinguishable from other softwood lumber products, which may seem bizarre at first glance, particularly since new railroad ties are not included in the scope of the investigation. However, used railroad ties can no longer be used as railroad ties and are often used in landscaping, so the Panel felt it made more sense to compare them to timber used for similar purposes, rather than new railroad ties. The Panel also found in favour of the USDC with regard to the inclusion of the Maritime Provinces in the assessment of duties.

There were a couple of victories for the Canadian side in relation to issues of scope. The Panel found that the USDC's reasoning for including finger-jointed flangestock and square end bed frame components was faulty. It directed the USDC to either come up with a better explanation or remove these items from the scope of the investigation.

Department of Commerce Response

The USDC has responded to the Panel's decision, citing that it has found new evidence supporting anti-dumping duties. The recalculated duties are marginally lower, falling 0.05 percentage points to 8.38%, although for some specific companies, the duties have increased. It is somewhat surprising that the number changed so little considering the admonition by the NAFTA Panel to take into account dimensional differences and to come up with a valid constructed value for goods where no domestic price is available. If the USDC finalizes this number, it is almost certain that Canada will once again appeal to the Panel to review the duties.

The US Department of Commerce has recalculated dumping duties dropping them slightly to 8.38%

COUNTERVAILING DUTIES

A *countervailing duty* (CVD) is a duty designed to protect domestic industry from injury caused by imports that have benefited from subsidies provided by government. The USDC determined that the federal and provincial governments provided an average subsidy of 18.79% to Canadian softwood lumber producers. The Canadian submission to the NAFTA Panel argued that the USDC decision was faulty on several counts:

- The petitioners were not "interested parties" as specified in the relevant statute
- **Stumpage** does not represent a subsidy to lumber producers and does not confer a benefit
- Even if stumpage is a subsidy, it is not applied to a specific industry and therefore does not meet the test of specificity
- There were several scope and "class or kind" issues
- An upstream analysis should be done to determine whether a producer of a downstream product (i.e., a product using logs as an input) is a beneficiary of the subsidy as well
- USDC improperly rejected applications for company exclusions and company-specific duties
- The calculations used to determine the subsidies were in error

Stumpage *is the fee charged to companies for timber cut on Crown lands*

On the first point the Panel rejected Canada's claim and found the petition to be valid. On the second point, the Panel determined that the stumpage system could conceivably confer a financial benefit on a lumber producer if the stumpage was set too low. These two points were impor-

The panel found that the stumpage system has the potential to provide a subsidy...

tant, because if the Panel had found in favour of Canada, it would be game over for the US lumber coalition. The finding that stumpage has the potential to be a subsidy is viewed as a victory by the American lumber producers because Canada has always held the view that this was not the case. However, the Panel did not conclude that the current stumpage system did amount to a subsidy, only that it could potentially do so. The USDC had to prove that the system somehow conferred a benefit. To prove a benefit exists, the USDC had to compare market prices for timber to the stumpage payments being made by Canadian companies. American law specifies that the preferred prices to be used in such a comparison are market prices in the country of exportation. If these are not suitable, then world market prices should be used and finally if no prices are available, then the prices paid should be checked for consistency with market principles. The USDC claimed that since the Canadian government is the dominant supplier in the market for logs, Canadian prices could not be used because they are not independent of the government price. The Panel found that this was not inconsistent with the law, but it also expressed "serious reservations" with this reasoning.

With no valid Canadian price to consider, the USDC turned to US prices as a world price. The Panel rejected this methodology. It pointed out that in a previous decision, the USDC found cross-border price comparisons to be "arbitrary and capricious" due to the large number of variables such as species combination, size, quality, accessibility, climate and so on. The Panel suggested that although the USDC is not bound by previous decisions, any reversal would have to be accompanied by a good reason.

...but found that the method used to determine whether or not a benefit was realised was extremely flawed

> In the Panel's view, Commerce has not offered an adequate explanation for its reversal of its earlier position and does not offer new factual circumstances that would now make cross-border comparisons any more reasonable. It is disingenuous for the Department to suggest that a new statutory regime could justify the use of what it already has described as an arbitrary and capricious exercise.[3]

The Panel concluded that the USDC's use of cross-border benchmarks was "unsupported by substantial evidence and is contrary to law." The Panel also rejected the notion of using "fair market value" as an adequate measure of what stumpage rates should be. The Panel noted that the standard set out in the law is to use actual market prices.

Use of cross-border benchmarks is "unsupported by substantial evidence and is contrary to law."

[3] The entire text of the Panel's decision on countervailing duties is available on-line at **http://www.nafta-sec-alena.org/app/DocRepository/1/Dispute/english/NAFTA_Chapter_19/USA/ua02030e.pdf**

The antidumping decision is available at **http://www.nafta-sec-alena.org/app/DocRepository/1/Dispute/english/NAFTA_Chapter_19/USA/Ua02020e.pdf**

The Panel's rejection of the USDC's methodology in calculating a subsidy is a substantial victory for Canada. Despite the assurance of John Ragosta, the main spokesman for the US lumber coalition, that "the number is going to be pretty darn close to 27 per cent,"[4] it is unlikely that the USDC will be able to justify anything close to that number to the satisfaction of the NAFTA Panel. In fact, if the USDC does come up with a number like that, it would seem to put into question the Department's independence and whether or not the lumber coalition has undue influence on its decision.

Continuing through the list of points put before the Panel, the notion that the industries benefiting from any subsidy that might exist aren't specific enough was rejected by the Panel. Although Canada argued that in the first decision made by the USDC on this issue (Lumber I), they found that specificity did not exist, the Panel pointed out that the law had changed since then such that the previous decision no longer applied.

In most of the scope and "class or kind" issues, the Panel found in favour of the USDC and rejected the Canadian arguments. The exception was for two product exclusions. The Panel found that reprocessed Maritimes-origin timber should have been excluded and that, unlike in the case of antidumping duties, used railroad ties should be excluded from duties. The Panel reasoned that since these ties were manufactured outside the period of investigation, it can't be determined whether a subsidy existed at that time or what that subsidy would have been.

With regard to upstream subsidies, the Panel found that the USDC acted within the law for the most part. The Panel also rejected most of the applications for company exclusions and request for company-specific CVDs. With regard to the calculations of how much benefit exists, the Panel rejected most of Canada's claims.

THREAT OF INJURY

The most recent NAFTA Panel decision was with regard to whether or not imports of Canadian lumber were a threat to the American industry. This result was by far the most one-sided of the three Panel decisions. The Panel used strong language in criticizing the US International Trade Commission's (ITC) "extensive lack of analysis" and expressed the opinion that "the Commission did not exercise 'special care' in making its threat determination in this case."

The threat of injury determination was "unsupported by substantial evidence and not in accordance with the law."

[4] As quoted in "Wood ruling undercuts U.S. stance," *Victoria Times-Colonist*, August 14, 2003, p. A1.

The panel concluded that:

> [T]he Commission's holding that the domestic softwood lumber industry is threatened with material injury by reason of allegedly subsidized imports and allegedly dumped imports from Canada is unsupported by substantial evidence and not in accordance with the law.[5]

The Panel ordered the ITC to review its determination taking consideration of all the available evidence. This is a crucial decision for Canada, because if the ITC cannot convince the Panel that there is a threat of injury, the other findings with regard to dumping or subsidies become irrelevant and the duties must be withdrawn.

CONCLUSION

Although a simple count of the number of points found in Canada's favour versus those found in favour of the USDC would seem to indicate that Canada was the loser in the first two NAFTA Panel decisions, in reality Canada scored a major victory in that the Panel rejected the methodology employed to calculate benchmark prices. It would have been a more decisive victory if the Panel had found that the stumpage system does not have the potential of conferring a subsidy; nevertheless, if the USDC acts in good faith according to the directions of the Panel, it is hard to conceive that they could come up with a duty even remotely close to that currently being applied. However, based on the USDC's recent revision of antidumping duties only slightly downward, it appears that this dispute may be far from over.

While the most recent decision regarding threat of injury was a decisive victory for Canada, the ITC has 100 days to delve through the evidence and the finding could again be that a threat of injury exists. If this dispute persists and the Americans continue to find creative ways to find injury and calculate duties, Canada may have to again appeal to a NAFTA Panel, which will again extend the time period of the dispute. This may simply be too long for some Canadian lumber producers to survive. However, perhaps with the pressure of the NAFTA Panels' decisions and the World Trade Organization's findings, this issue will come to a resolution once and for all, but given the history of the dispute, don't bet on it.

[5] The entire text of the Panel's decision on threat of injury is available on-line at **http://www.nafta-sec-alena.org/app/DocRepository/1/Dispute/english/NAFTA_Chapter_19/ USA/ua02070e.pdf**

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BC at a glance . . .

POPULATION (thousands)	Jul 1/03	% change on one year ago
BC	4,146.6	0.8
Canada	31,629.7	0.9
GDP and INCOME		
(BC - at market prices)	2002 Prelim.	% change on one year ago
Gross Domestic Product (GDP) *($ millions)*	134,365	2.7
GDP *($ 1997 millions)*	126,141	1.8
GDP *($ 1997 per Capita)*	30,459	0.8
Personal Disposable Income *($ 1997 per Capita)*	19,445	-0.2
TRADE ($ millions, seasonally adjusted)		% change on prev. month
Manufacturing Shipments - Aug	2,793	1.6
Merchandise Exports - Aug	2,515	-3.3
Retail Sales - Aug	3,480	1.6
CONSUMER PRICE INDEX		12-month avg
(all items - 1992=100)	Sep '03	% change
BC	121.2	2.6
Canada	122.7	3.3
LABOUR FORCE (thousands)		% change on
(seasonally adjusted)	Sep '03	prev. month
Labour Force - BC	2,219	0.1
Employed - BC	2,018	-0.3
Unemployed - BC	201	4.0
		Aug '03
Unemployment Rate - BC *(percent)*	9.1	8.7
Unemployment Rate - Canada *(percent)*	8.0	8.0
INTEREST RATES (percent)	Oct 22/03	Oct 23/02
Prime Business Rate	4.50	4.50
Conventional Mortgages - 1 year	4.55	5.30
- 5 year	6.40	7.00
US/CANADA EXCHANGE RATE	Oct 22/03	Oct 23/02
(avg. noon spot rate) Cdn $	1.3038	1.5687
US $ *(reciprocal of the closing rate)*	0.7670	0.6385
AVERAGE WEEKLY WAGE RATE		% change on
(industrial aggregate - dollars)	Sep '03	one year ago
BC	686.99	2.7
Canada	669.59	2.4

SOURCES:

Population, Gross Domestic Product, Trade, Prices, Labour Force, Wage Rate } Statistics Canada

Interest Rates, Exchange Rates: Bank of Canada Weekly Financial Statistics

For latest Weekly Financial Statistics see www.bankofcanada.ca

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